No. 87-1204

In The

Supreme Court of the United States

OCTOBER TERM, 1987

JOHN JONES, SR. AND
GAIL KIM JONES, his wife,

Petitioners,

-vs-

PRINCETON UNIVERSITY, TRUSTEES OF PRINCETON UNIVERSITY, PRINCETON PLASMA PHYSICS LABORATORY, PRINCETON UNIVERSITY SECURITY DIVISION, OFFICER WATSON AND OFFICER TRANI, individually and as Agents of Princeton University and Princeton University Security Division, PLAINSBORO POLICE DEPARTMENT, SERGEANT MICHAEL DONAHUE AND OFFICER ROBERT LASKO, individually and as Agents of Plainsboro Police Department,

Respondents.

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES SUPREME COURT

John F. McCarthy, Jr.
McCARTHY AND
SCHATZMAN, P.A.
228 Alexander Street
P.O. Box 2329
Princeton, New Jersey 08543-2329
(609) 924-1199

Attorneys for Respondent,
Princeton University

On the Brief
Michael A. Spero
Jill S. Frankel

THE SUPERIOR APPELLATE PRINTING COMPANY
P.O. Box 363
Cranbury, N.J. 08512
Area Code 609
655-1122

QUESTIONS PRESENTED

1) Does the United States Supreme Court have jurisdiction to grant a Writ of Certiorari in this matter?

2) Have these *pro se* litigants in this action been deprived of a statutory or constitutional right to "assistance of counsel"?

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OPINIONS BELOW

The Order of the United States District Court, District of New Jersey entered on July 8, 1987 by the Honorable Robert E. Cowen is attached hereto as 1a.

The Order of the United States Court of Appeals, for the Third Circuit, dismissing petitioners' appeal, dated September 3, 1987, is located in petitioners' appendix at page A4.

The Order of the United States Court of Appeals, for the Third Circuit, denying petitioners' Petition for Rehearing and Suggestion for Rehearing en banc, dated October 8, 1987 is located in petitioner's appendix at pages A5-A6.

STATEMENT OF JURISDICTION

The United States Supreme Court lacks jurisdiction in this matter. The statutes on which petitioners rely to invoke jurisdiction, 28 U.S.C. §1254 (1) and 28 U.S.C. §2403 (a) are inapplicable.

28 U.S.C. §1254 (1) provides:

> Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:
>
> (1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;
>
> (Emphasis supplied)

In *United States v. Nixon*, 418 U.S. 683, 41 L.Ed. 2d 1039, 94 S.Ct. 3090 (1974) this Court specified that a case is "in" the Court of Appeals if (a) the appeal to the Court of Appeals was timely filed; (b) all other procedural requirements were met; and (c) the District Court's order from which the appeal was taken was "final" within the meaning of 28 U.S.C. §1291. Under 28 U.S.C. § 1291 the courts of appeals have jurisdiction of appeals from only "final decisions" of the district courts of the United States. *Bachowski v. Usery*, 545 F.2d 363 (3rd Cir. 1976); *Arthur Anderson & Co. v. Finesilver*, 546 F.2d 338 (10th Cir. 1976), *cert. den.* 429 U.S. 1096, 51 L.Ed. 2d 543, 97 *S. Ct.* 1113; *United States v. Haley*, 541 F.2d 678 (8th Cir. 1974).

The Order located in petitioner's appendix at page A4 of this appendix indicates that petitioner's appeal was clearly not taken from a "final" order of the District Court. The appeal was taken from the District Court's partial summary judgment order and in fact was dismissed by the Court of Appeals because "taken from a non-appealable order." Since petitioners appeal was not taken from a "final" order of the District Court and

was subsequently dismissed, this case was never "in" the court of appeals within the meaning of 28 U.S.C. §1254 and therefore the United States Supreme Court should not issue a writ of certiorari.

28 U.S.C. §2403(a) is also inapplicable to petitioners. That statute provides:

> (a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

There is no Act of Congress affecting the public interest, the constitutionality of which is drawn into question, involved in this case. Further, as petitioners acknowledge in their Petition (Petitioners' brief, p. 4) neither the District Court nor Court of Appeals has certified any constitutional challenge to the United States Attorney General.

Finally, the questions presented by petitioners were never raised nor addressed by either the District Court or the Third Circuit Court of Appeals.

STATUTES INVOLVED

The statutes involved are:

1) 28 U.S.C. § 1254 (1), which provides:

Courts of appeals; certiorari; appeal; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

2) 28 U.S.C. § 2403(a), which provides:

Intervention by United States or a State; constitutional question

(a) In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality.

3) 28 U.S.C. § 1654, which provides:

Appearance personally or by counsel

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

UNITED STATES SUPREME COURT RULES INVOLVED

The United States Supreme Court Rules involved are:

1) Rule 17, which provides:

Considerations governing review on certiorari

.1. A review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor. The following, which neither controlling nor fully measuring the Court's discretion, indicate the character of reasons that will be considered.

(a) When a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

(b) When a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals.

(c) When a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court.

.2. The same general considerations outlined above will control in respect of petitions for writs of certiorari to review judgments of the United States Court of Appeals for the Federal Circuit, the United States Court of Military Appeals, and of any other court whose judgments are reviewable by law on writ of certiorari.

2) Rule 21.5, which provides:

Rule 21. The petition for certiorari

.5. The failure of a petitioner to present with accuracy, brevity, and clearness whatever is essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying his petition.

STATEMENT OF THE CASE

Essential to a just disposition of the petition for writ of certiorari is a complete understanding of the procedural and factual background behind this litigation.

This matter arises from petitioner's institution of a law suit against Princeton University, Trustees of Princeton University, Princeton University Plasma Physics Laboratory, Princeton University Security Division, Officer Watson and Officer Trani, individually and as agents of Princeton University and Princeton University Security Division (hereinafter the "Princeton University defendants"), The United States Department of Energy, Plainsboro Township Police Department, including Sergeant Michael Donahue and Officer Robert Lasko. Petitioner, John Jones, Sr., was hired by Princeton University's Plasma Physics Laboratory as an instrument maker. He was an at-will employee. Petitioners seek damages for the alleged wrongful termination of John Jones, Sr.'s employment by Princeton University, for alleged defamation, and for alleged invasion of constitutionally protected rights. Petitioner Gail Kim Jones sues derivatively for loss of consortium. She also advances a theory of recovery which alleges that she will be subjected to speculation, ridicule and scorn because of the alleged malicious acts of the defendants towards her husband.

On or about October 31, 1984, petitioners filed their Complaint in the Clerk's Office of the United States District Court for the District of New Jersey.

On March 15, 1985, Princeton University obtained a Clerk's Order extending the time to answer for fifteen (15) days, through and including April 2, 1985 and on April 2, 1985, Princeton University filed its Answer to Complaint and Separate Defenses.

On July 15, 1985, an Order granting summary judgment in favor of the defendant United States Department of Energy, was filed. On that same date, an Order denying without prejudice the motion of the

Princeton University defendants to dismiss Counts 8 and 9 of the Complaint alleging wrongful discharge and emotional distress, dismissing Counts 4 and 5 of the Complaint alleging defamation under State law and dismissing all claims against defendant, Dr. William G. Bowen, was filed by Judge Barry, U.S.D.J..

Because the petitioners failed to appear for depositions it was necessary to file a motion on November 6, 1985 to compel depositions. This motion was granted by United States Magistrate Devine and filed on January 17, 1986. Petitioners had refused to be deposed without tape recording the deposition and on April 23, 1986 an Order was signed by the Honorable Robert E. Cowen, U.S.D.J. denying 1) petitioners' application to tape record; 2) petitioners' application to recuse Magistrate Devine, 3) petitioners' application to have their former attorney turn over documents (the prior attorney never having received notice of petitioner's application; and 4) petitioner's application for a stay. (3a) On May 22, 1986, petitioners filed a Notice of Appeal to the United States Court of Appeals, Third Circuit seeking interlocutory relief (CA No. 5357). The Appeal was dismissed on August 28, 1986.

On September 4, 1986, petitioners filed an emergency motion for a stay of proceedings which was denied by Judge Cowen. Petitioners thereafter filed another Notice of Appeal to the United States Court of Appeals, Third Circuit (CA No. 86-5826), which was dismissed on December 31, 1986 for failure to timely prosecute.

On or about October 31, 1986, petitioners filed an Emergency Motion on Short Notice/Petition for Writ of Mandamus with the United States Court of Appeals, Third Circuit (CA No. 86-3709), which was denied on December 31, 1986.

On or about November 6, 1986, petitioners were ordered to appear for depositions to be conducted at the United States District Courthouse commencing November 24, 1986. On or around November 20, 1986

petitioners filed a Notice of Appeal which was dismissed on December 30, 1986 due to a jurisdictional defect (CA No. 86-5785). The depositions of the petitioners were conducted in Judge Cowen's jury room on November 24, 25, 26, and December 1, 1986.

On or about March 17, 1987, petitioners filed a motion to 1) compel all defendants to answer interrogatories and produce documents; 2) require petitioner's prior counsel to turn over documents allegedly belonging to them; and 3) amend their complaint to add Michael A. Spero, Esq. as defendant. After reviewing the moving papers, the papers in opposition submitted by the Princeton University defendants, and noting that petitioner's prior counsel was not a party and that the Princeton University defendants had provided interrogatory answers and produced the requested documents. Magistrate Devine denied this motion on April 16, 1987.

Petitioners also filed a motion returnable May 18, 1987 to tape record depositions pursuant to F.R.C.P. 30 (b) (4). This motion was denied on May 26, 1987 by Judge Cowen.

On June 3, 1987 the Princeton University defendants filed a motion for summary judgment in the United States District Court, which was argued on June 24, 1987. On July 8, 1987 Judge Cowen granted partial summary judgment in favor of the Princeton University defendants dismissing the First Count, paragraph 20(b), 20(d), 20(e), of the Complaint.(1a).

On August 7, 1987 petitioners filed a Notice of Appeal, appealing this Order. On September 3, 1987 the appeal was dismissed because it was taken from a non-appealable order (see petitioner's appendix at page A4). Petitioners then filed a Petition for Rehearing and Suggestion for Rehearing en Banc which was denied on October 8, 1987 (see petitioner's appendix at pages A5 and A6).

Petitioners now file a Petition for Writ of Certiorari to the United States Supreme Court.

REASONS FOR DENYING THE PETITION FOR WRIT OF CERTIORARI

I. The Petition for Writ of Certiorari Should Be Denied Because the Court Lacks Jurisdiction.

Along with the arguments set forth in the jurisdictional section of this brief, the Court should deny the Petition for Writ of Certiorari because the criteria of *R.* 17 have not been met. *R.* 17 provides that the Court should exercise its discretionary power of review "only when there are special and important reasons therefor." *R.* 17.1.

R. 17.1(a)-(c) sets forth some factors which the Court deems characteristic of cases which are of sufficient importance to warrant Supreme Court review. None of these factors are applicable to this case.

Petitioners have appealed a partial grant of summary judgment in the District Court, which the Court of Appeals dismissed because taken from a non-appealable order. Clearly this is not a situation where a federal court of appeals has rendered a decision in conflict with the decision of another federal court of appeals on the same matter; or has decided a federal question in a way in conflict with a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision. *R.* 17.1 (a).

Neither is this the situation where a state court of last resort has decided a federal question in a way in conflict with the decision of another state court of last resort or of a federal court of appeals, as this case was never in state court. *R.* 17.1(b). Nor is this the situation where a state court or a federal court of appeals has decided an important question of federal law which has not been, but should be, settled by this Court, or has decided a federal question in a way in conflict with applicable decisions of this Court. *R.* 17.1(c).

None of these reasons for granting certiorari, as stated in *R.* 17.1, exist in this case. Petitioners have in no way indicated any special or important reasons for granting certiorari review.

It is critical to note that the questions presented in petitioners' brief have never been raised by petitioners nor addressed by the District Court or Court of Appeals.

Additionally, *Rule* 21.5 is applicable here because petitioners have failed to present with accuracy and clarity any issues or arguments essential to an adequate understanding of the points requiring consideration. Petitioners attempt to raise issues not raised below, are confusing issues and are making pointless arguments which are delaying this litigation. Accordingly, this Court should deny the petition under *R.* 21.5.

II. These Pro Se Litigants In This Action Have Never Been Deprived of a Statutory or Constitutional Right to "Assistance of Counsel."

Petitioners argue that they have been denied their statutory and constitutional right to "assistance of counsel." Petitioners have never been denied any rights to assistance of counsel. Throughout this extended litigation United States District Court Judge Robert E. Cowen has repeatedly stated to petitioners that they may obtain counsel in this matter. Petitioners have chosen to proceed *pro se*. They are by no means indigent. Petitioner Gail Kim Jones is a full time police officer and petitioner John Jones, Sr. is an instrument maker. Petitioners certainly could choose to obtain legal counsel if they so desired. In fact, petitioners had been represented by New Jersey counsel Frances Hartman, Esq. for a period of time and thereafter discharged him as their attorney, preferring to proceed *pro se*.

Thereafter petitioners consulted with another attorney, Theodore Kravitz, Esq. but petitioners did not want him to enter an appearance. Judge Cowen

repeatedly gave petitioners the opportunity to have counsel enter an appearance on their behalf.

This issue was raised on November 26, 1986 during one of petitioner's motion, that the court provide petitioners with marshalls to pick them up at the bridge to enter New Jersey from Pennsylvania, among other requests. At that time, petitioners also requested that Mr. Kravitz attend the court-ordered depositions but not as attorney of record. Judge Cowen explained that petitioners could either proceed *pro se* or have an attorney enter an appearance.

There has been no denial of right to counsel here. There has been no denial of petitioners constitutional rights under the First, Fifth, Sixth and Fourteenth amendments. All parties are governed by 28 U.S.C. 1654, Appearance Personally or By Counsel. That statute provides:

> In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein. (Emphasis supplied).

Under this statute it is evident that parties may conduct their case personally or by counsel. The parties are given the choice, just as Judge Cowen repeatedly gave the choice to petitioners.

Petitioners argue that they have a right to "assistance" of counsel throughout this litigation, while at the same time proceeding *pro se*. The law is clear that a party in a civil action has absolutely no constitutional or other right to conduct his own case *pro se* and have aid of counsel to speak and argue for him at the same time. *Brasier v. Jeary*, 256 *F2d* 474 (8th Cir. 1958), *cert den'd.* 358 U.S. 867, 3 L.Ed.2d 99, 79 S.Ct. 97, *reh. den.* 358 U.S. 923, 3 L.Ed. 2d 242, 79 S.Ct. 286.

In *Brasier*, the Court squarely addressed the issue raised by petitioners. In *Brasier*, the United States Court of Appeals for the Eighth Circuit addressed the single question of whether a party to a civil suit may appear, *pro se* and insist on the right to be represented by counsel at the same time. The appellant had commenced a suit, signing the complaint "George H. Brasier, Plaintiff, *pro se*" and "J.A. Hayward, Resident Attorney." Before commencement of the trial the resident attorney moved to allow the plaintiff to assist counsel during the progress of the trial, which motion was denied.

The plaintiff appealed this decision and argued that 28 U.S.C. §1654 was indefinite, vague and violative of the essentials of 'due process of law' secured by the Fifth Amendment to the Federal Constitution. Plaintiff-appellant also contended that he possessed a fundamental right to appear in person in the federal courts and to ". . . conduct the prosecution of his own controversy with aid of associate counsel, and that Congress and the Judiciary do not have on scintilla of authority to deny that right and to do so, would be violative of 'due process of law.'" *Brasier*, 256 F.2d. at 475.

The Court held that §1654 was not vague and indefinite and that it clearly set forth that in all courts of the United States the parties have the right to plead and conduct their cases personally or by counsel and that such representation by counsel shall be in accordance with the rules of the courts. *Ibid.*

The Court also held that while there was no doubt that appellant possessed the right to appear in person and conduct the prosecution of his own case, he did not possess the fundamental right to also have the aid of counsel. *Id.* at p. 476. The Court reviewed the original statute from which 28 U.S.C. §1654 was derived and its history and concluded that litigants were to make their claims either in person or by an attorney. The Court stated "[t]he alternative appears to be very clear, justifying the conclusion that where a person elected to

appear by attorney, he waived the privilege of appearing for himself. . . . We find nothing in our research to justify appellant's assertion that he possesses the fundamental right to appear for himself personally and also be represented by counsel at the same time. Denial of the right to appear in both capacities is not, in our opinion, violative of 'due process of law' as secured by the Fifth Amendment." *Id.* at 477.

In making its decision the Court also noted that it is the power and responsibility of a federal judge in a jury trial to govern and control the conduct of the trial, quoting *Herron v. Southern Pacific Co.*, 1931, 283 U.S. 91, 95, 51 S.Ct. 383, 384, 75 L.Ed. 857. The Court stated that appellant's motion to be allowed to assist counsel and aid counsel was an effort by a party to a civil suit to have counsel represent him and to also have the unqualified right to interfere with the proceedings at any point he desired, to join in the arguments to court and jury, and to supplement his counsel's statements whenever he saw fit to do so. The Court stated that this comes clearly within the discretionary power of a trial judge to control and regulate the orderly procedure of the trial. *Brasier*, 256 F.2d. at 477. The Court stated:

> Even in criminal matters it has consistently been held that it was not error to deny a defendant's request that he be permitted to act as his own counsel at a time when he was represented by counsel of his choice. In the very recent case of *Egan v. Teets*, 9 Cir., 1957, 251 F.wd 571, 578-579, it was held that the trial court's denial of Egan's request that he be permitted to act as his own counsel at the same time that he was represented by counsel of his own choice did not deprive Egan of <u>any</u> federal constitutional right. (Emphasis supplied.) *Ibid.*

The Court in *Brasier* also relied upon *United States v. Foster*, D.C.N.Y., 9 F.R.D. 367, where Judge Medina

held that an accused has no right to be heard both in person and by attorney. In denying the request of one of the defendants to be allowed to discharge his attorney (held to be mere subterfuge and not in good faith) and argue his own case to the jury, Judge Medina stated, at page 372:

> In the federal courts, where a defendant has no right to be heard both in person and by attorney, it would seem clear that the control of the proceedings by the court is no less extensive. Cf. *Eury v. Huff*, 4 Cir., 1944, 141 F.2d 554; *Overholser v. DeMarcos*, 1945, 80 U.S. App. D.C. 91, 149 F.2d 23,26.

See also *State v. Townley*, 1921, 149 Minn. 5, 182 N.W. 773, 17 A.L.R. 253, 271, certiorari denied 257 U.S. 643, 42 S.Ct. 54, 66 L.Ed. 413; *Shelton v. U.S.* 205 F.2d 806,812 (5th Cir. 1953).

Based upon the above, the Court, in *Brasier*, concluded tht the appellant had "no constitutional or other right to conduct his own case *pro se* and have the aid of counsel to speak and argue for him at the same time." *Brasier*, 256 F.2d at 478.

Similarly, in *Munz vs. Fayram*, 626 *F.Supp.* 197 (N.D. Iowa, 1985) plaintiff filed a civil rights action *pro se* and thereafter filed a motion for appointment of counsel which was granted. Although counsel was appointed to represent plaintiff, plaintiff continued to file motions *pro se* and asserted that he had a right to dual representation. The United States Magistrate reported and recommended that plaintiff was not entitled to dual representation. Plaintiff objected to the Magistrate's report and argued that the Magistrate's recommendation, if adopted, would deny him his right of meaningful access to the courts and his right to control the lawsuit.

The United States District Court adopted the recommendation of the Magistrate and concluded that there was no constitutional or statutory right to dual

representation. *Munz*, 626 *F.Supp.* at 198 (emphasis supplied), citing *Brasier v. Jeany*, 256 F.2d 474, 478 (8th Cir. 1958). The Court cited 28 U.S.C. §1654 and noted that it provides that parties may plead and conduct their own cases personally or by counsel.

See also *Lanigan v. LaSalle National Bank*, 609 *F. Supp.* 1000, 1002 (N.D. Ill. 1985) where the court concluded that if the defendant attorney is to proceed *pro se*, he must discharge any other lawyer who has filed an appearance on his behalf since the rights of self-representation and representation by counsel may not be exercised at the same time). (Emphasis supplied).

Judge Cowen has always afforded petitioners the opportunity to make the choice the law allows as set forth in case law and statute. During petitioners' November 26, 1986 motion, Judge Cowen specifically stated:

> THE COURT: I told you yesterday if your attorney wants to sit there, and not be an attorney, there is no problem. But I don't want him there as an attorney, half as an attorney, or in some other peculiar way guiding you and giving you advice, and not being of record. If he is the attorney, I want him to be the attorney and responsible for any applications. Because it is quite obvious that it is very difficult dealing with you, when you are *pro se*, and if I have to deal with you when you are *pro se*, and you have an attorney who is really not your attorney, it is going to be impossible.
>
> MR. JONES: Yes, sir.
>
> THE COURT: I want someone responsible. If you are the person that wants to be responsible, there is no problem. If you attorney wants to enter an appearance and be your attorney, that is all right. If he

doesn't want to be your attorney, he can just sit there and observe the proceedings, but I don't want him to act as your attorney during these proceedings, while he is sitting there.

MR. JONES: Wonderful, your Honor.

THE COURT: Unless he enters an appearance.

MR. JONES: Wonderful. I really appreciate that clarification, and I accept responsibility on the way we posited that to you yesterday perhaps our way of discussing it caused the problem which appears to be cured with what you just said now. So I accept responsibility. (Transcript dated November 26, 1986, pages 5:5 through 6:6)

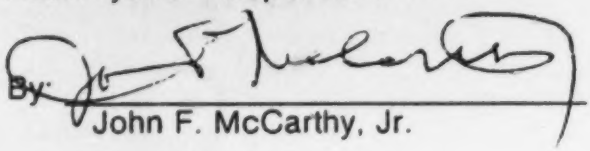
Clearly Judge Cowen had the discretionary power to control and regulate the orderly procedure of this litigation and petitioners have not been denied any statutory or constitutional rights to assistance of counsel, as they allege.

In conclusion, the Supreme Court does not have jurisdiction under 28 U.S.C. §1254(1) or 28 U.S.C. § 2403(a) and should not grant this Petition. Moreover, there is absolutely no basis for petitioners' claim of a "right to assistance of counsel." Petitioners assertions are weak, frivolous and wholly unsupported by the decisional authority cited by them. Even if jurisdiction was found to exist, certainly the claim falls far short of the special and important reasons necessary to justify Supreme Court review.

CONCLUSION

For the reasons stated above, it is respectfully submitted that the petition for certiorari should be denied.

McCARTHY AND SCHATZMAN, P.A.
Attorneys for Respondent

By: 
John F. McCarthy, Jr.

Dated: February 4, 1988

APPENDIX

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW JERSEY

JOHN JONES, SR. AND GAIL KIM JONES, his wife,	:	Civil Action No. 84-4528 (REC)
Plaintiffs,	:	
vs.	:	
PRINCETON UNIVERSITY, TRUSTEES OF PRINCETON UNIVERSITY, PRINCETON PLASMA PHYSICS LABORATORY, PRINCETON UNIVERSITY SECURITY DIVISION, OFFICER WATSON AND OFFICER TRANI, individually and as Agents of Princeton University and Princeton University Security Division, PLAINSBORO POLICE DEPARTMENT, SERGEANT MICHAEL DONAHUE AND OFFICER ROBERT LASKO, individually and as Agents of Plainsboro Police Department,	:	ORDER GRANTING SUMMARY JUDGMENT
Defendants.	:	

THIS MATTER having been opened to the Court by defendants Princeton University, The Trustees of Princeton University, Princeton University Plasma Physics Laboratory, Princeton University Security

Division, Officer Watson and Officer Trani, individually and as Agents of Princeton University and Princeton University Security Division through their attorneys, McCarthy and Schatzman, P.A., by Michael A. Spero, Esq., on Motion for an Order pursuant to Rule 56, F.R.C.P., granting these defendants summary judgment and the Court having considered the pleadings and Memoranda submitted by the parties and having heard oral argument, and for the reasons expressed in this Court's oral opinion of July 6, 1987;

IT IS on this 8th day of July, 1987, ORDERED that summary judgment be entered in favor of defendants Princeton University, The Trustees of Princeton University, Princeton University Plasma Physics Laboratory, Princeton University Security Division, Officer Watson and Officer Trani, individually and as Agents of Princeton University and Princeton University Security Division, and against plaintiffs John Jones, Sr. and Gail Kim Jones, his wife, dismissing the following counts of the complaint with prejudice and with costs to be taxed by the Clerk: First Count, § 20(b),

20(d), 20(e) regarding the Eighth Amendment to the United States Constitution, Fourth Count, Fifth Count and Sixth Count.

ROBERT E. COWEN,
U.S.D.J.